

**REMARKS**

Claims 1-13 and 17-44 are pending in the application. The Office Action indicates the claims are directed toward three patentably distinct species and are subject to an election requirement. The three species are:

Species A: the level controlling means is constituted by an etching-resistant film formed around the peripheral surface of an optical fiber;

Species B: the level controlling means is constituted by a coating film applied to an optical fiber element; and

Species C: the level controlling means comprises a flat plate made of etching-resistant material and through-apertures formed through said flat plate perpendicularly to the plane of the flat plate, each of said through-apertures having a diameter slightly larger than the outer diameter of the corresponding optical fiber element.

Applicants wish to thank the Examiner for defining the species by claim features rather than referring to figures or using some other means of identification. In other applications, the use of figures to identify species has often made it very unclear what the Examiner regarded as the distinctive features of the species.

In response, Applicants elect the claims of Species B. Claims 1-3, 5, 7, 9, 11-13, 17-23, 27-29, 33-35 and 39-41 "read on" the elected species. This is discussed in more detail below to provide a basis for discussion should the Examiner disagree.

Claims 5 and 9 recite the feature that identifies Species B. Their dependent claims 27-29 and 39-41 do not add any features that conflict with the distinctive features of the elected species; therefore, it is believed claims 5, 9, 27-29 and 39-41 "read on" Species B.

The Office Action indicates only claims 1-2 are considered generic. Applicants believe claims 1-3, 7, 11-13, 17-23 and 33-35 are generic for reasons explained in the following paragraphs.

Claims 5 and 9 are dependent on claims 3 and 7, respectively. Claims 3 and 7 recite the level controlling means in a way that is not restricted to any of the three species; therefore, it is believed they should also be generic to all three species. Claims 11-13, 18-20, 21-23 and 33-35 add further limitations to claims 1, 2, 3 and 7, respectively, that are not specific to or inconsistent with any of the listed species. In other words, if the features of these dependent claims were incorporated into their respective base claim, the resulting base claim would still be generic to all three species.

Claims 17 is an independent claim that does not recite any feature that is restricted to any of the listed species and it does not recite any feature that is inconsistent with any of the listed species; therefore, it also should be generic.

If the Examiner should disagree with any of the reasons set forth above, we would appreciate knowing the reasons for the disagreement. We have asked many PTO Examiners through the years, both during interviews and through written communications, to explain what it means for a claim to "read on a species" and we have never received an unequivocal answer. Explanations like "it depends" without telling us what it depends on has been the typical answer. A clear explanation for any disagreement would be greatly appreciated.

Respectfully submitted,



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**Certificate of Transmission**

I certify that this Response to Office Action and any following materials are being transmitted by facsimile on December 28, 2005 to the U.S. Patent and Trademark Office at telephone number (571) 273-8300.

  
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